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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,309	04/16/2004	Richard S. Kusleika	12013/48803	7747
23838 7590 05/05/2010 KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005				
EXAMINER VU, QUYNH-NHU HOANG				
ART UNIT 3763		PAPER NUMBER		
MAIL DATE 05/05/2010		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* RICHARD S. KUSLEIKA

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Appeal 2010-006943  
Application 10/825,309  
Technology Center 3700

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Before KIMBERLY R. JORDAN, *Division 1 Support Administrator*.

ORDER REMANDING APPEAL TO THE EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on May 3, 2010. A Docketing Notice was mailed on May 4, 2010. Upon review of the application, it has been determined that a remand to the Examiner is necessary to consider the following issues and to take necessary corrective action.

UNDECIDED PETITION

A Petition to request designation of new grounds of rejection in the Examiner's Answer was filed on March 22, 2010. However, there is no indication in the record that the Petition was decided.

REPLY BRIEF NOT CONSIDERED

A Reply Brief was filed in this application on March, 22, 2010. There is no evidence on the record indicating that the Examiner has considered the Reply Brief in accordance with 37 CFR § 41.43(a)(1) and MPEP § 1208, part II.

CONCLUSION

Accordingly, it is ordered that the application be remanded to the Examiner:

- 1) to have the Petition filed March 22, 2010 decided;
- 2) to consider the Reply Brief filed March 22, 2010, as indicated above; and
- 3) for further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KRJ/msc

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